G. R. S. 58]

Previous references,

File No. 24 -

191 .

Serial Nos.

( )

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos.

Part B for

SUBJECT.

Notes Re: Chauthayi remission on the wet lands irrigated by the Hathlagavad tank of Chikmarenahalli in the Bangalore Tq.

W D 1351—GPB—20,000—13-12-15

Rev. Deptt

Office-Note (Contd.)

Chontaiji remission on the wet lands irrigated by the Hathlagavad tank of Chickamaranahalli in the Bangalore Taluk.

In his order dated 18th January 1831, Faukdar Timmappa Rajurs permitted one Kilary Ramaswami to restore the ruined tank near Chickamaranahalli promising to recommend the grant to him of one-fourth of the land under the tank free of assessment. On the strength of this order this individual executed the necessary repairs to the tank, but he was not granted one-fourth of the land under the tank as promised; the reason for this is not apparent. The water stored in the tank in consequence of its restoration was utilized not only for the lands under it but also for those of the adjoining village of Nagasettihally. One-fourth of the produce derived by the Govt from the lands in both these villages irrigated by the water from the tank was allowed to be made over

to

Subd

The Sale proceeds deposited in Bank Rs Kodaji right. The tank repairs were conducted by Govt & fully Govt Collected

Rs.

28/4

As orders below by

6/7/88.

to the said individual as Kodagidar of the tank. This arrangement continued till the Govt abolished the Batavge System and converted the Batavge lands into money assessment; and then the lands under the tank of Chickmaranhalli were given out to the Kodagidar on assessment while those in Nagasettihalli irrigated by this tank were similarly made over to the Ryots of that village allowing the Kodagidar remission of 1/4th of the assessment on the former lands and the grant of 1/4th of the assessment on the latter in money.

2 In 1866 Jamanna Son of the Kodagidar contracted a debt of ~~Rs~~ 800 from Somanappa and Nanjappa Sons of Dewan ~~Sa~~ Suvappa and their brother-in-law Venkatdanaiah and in 1868 obtained from them a further loan of ~~Rs~~ 500; and for the total amount of ~~Rs~~ 1350 he mortgaged for a period of twenty years his Chowthavge hak referred to and the lands held by him in Chickmaranhalli reserving for himself 1/4th of the Chowthavge derived from

from the lands under Nagasettihally and one Khandi of land in Chickmaranhalli. The deed of mortgage was executed in the name of the said Venkatadasaiah. This provided that the responsibility of repairs of the tank rested with the mortgagor, the mortgagee however was at liberty to execute the repairs when necessary giving intimation of the same to the mortgagor who bound himself to pay the cost of such repairs, when repaying the original amount borrowed.

3. In 1872-73 the Bangalore Taluq was brought under the Survey Settlement and assessment, as noted in the margin, fixed on the lands in the two villages subject to irrigation from the water of the Kodagi tank: and one-fourth of the assessment to be deducted on behalf of the Kodagidar amounted to Rs 103-11-0. By an oversight the whole of the assessment was erroneously credited in the accounts for 1872-73 and a remission of the said 1/4th viz Rs 103-11-0 was recommended. This was sanctioned

dated 4/7/68

	Amt. A.P.
Chickmaranhally	168-0-0
Nagasettihalli	246-12-0
Total Rs	414-12-0

one-fourth of this amount is Rs 103-11-0

Remd/Comm's No 7043 18/8/73
Ch: Comm's Proc No 4065/117 dt 21/10/73.

Sanctioned in the Ch: Commrs Proceedings No (2) 4065/117 of 21st October 1873 in which it was observed that the whole of the revenue derived under the Chickmaranhalli tank should in future be entered in the accounts without deductions the proportion payable to the Kodagidar being separately shewn under the head of Charges. After some correspondence on this subject, it was directed (4) in the Ch: Commrs Pro No 6324 of 2/11/75 that the Kodagidar's 1/4 9/ share should be deducted from future collections and credited to the head of "Allowances deducted from Sayer and other collections" charging the payments to the same head. and that in Revenue Returns, the gross demand of Loudayen should be entered as well as the gross collections and the Kodagidar's share should be shewn in the Column for remissions.

4. In 1882-83, Nanjappa who was enjoying the Choutayee from Govt paid only Rs 12 in the first Kist ~~for~~ on account of the assessment on the wet lands of Chickmaranhalli and failed to pay the remainder: deducted

deducting from this the Chowthaiee ~~due~~ for that year the balance due to Govt amounted to ~~Rs~~ £73-3. This was not paid in spite of demand. The lands were consequently ⁂ Sold by auction under orders of the Dy Commr after duly serving notices on Jamanna and Nanjappa. in this sale one Narsimma Bhatt purchased them for ~~Rs~~ £90. and the Dy Commr ~~granted~~ him the usual certificate of Sale: this individual continues to enjoy the lands since the sale paying full assessment to Govt.

5. The Chowthaiee payable to the Kodagi holder ⊕ was being deducted from the amount due on the lands under the Chikmaranhalli tank: Since the lands were sold for arrears of 1882/83 the deduction for the subsequent years could not be made and the Chowthaiee ~~has~~ remained ~~in arrears~~ unpaid. The Amildar Solicited orders of the Dy Commr as to whether money payment might be made on this account as otherwise it would be difficult to exert any pressure on the Kodagi holder for repairs necessary

⁂ 10th September 1883.
No 66 Dy 24/4/83
* Dy Comrs No 259 Dy 19/6/83.

† Amils No 259 Dy 14/10/83.

× No 1058 Dy 12/3/84 (Vide Dy Comrs order and receipt signed by the purchaser Dy 25/3/84)

⊕ Amils No: 644 Dy 22/10/84

necessary for the tank.
The Dy Collector enquired + Order 710 dy 8/11/84
who was responsible for
the upkeep of the tank
and to whom the one-fourth
remission was due. The
Amildar in reply narrated Amils No 67 dy 8/4/85.
all the circumstances of
the case and observed
that the responsibility of
maintaining the tank in
proper condition belonged
to the Kodagidar and
since it was mortgaged
Nanjappa had repaired
the tank 2 or 3 times. ~~but~~
a notice had been served
on him to execute
further repairs: he had
done so but the work
was not substantial:
~~he was~~ and therefore he
had executed a Muchelika
binding himself to have
the work done in accordance
with any estimate to
be framed by the Executive
Engineer:

6. The Chowthaiga amount
on account of this Kodagi
remaining unpaid
since the sale referred to
is claimed by.
(1) Naranappa ⊕ son of the Kyfiat before Amil dy 18/5/86.
said Venkatramanaiah:
This individual says that
on the death of his father
which took place about 5
years ago he went away
to Kanneambadi giving
over the charge of the
lands

lands to his maternal uncle Nanjappa; the latter failing to pay the Govt. demand they were sold; he would file a suit separately for the loss to which he has been put in the matter; the account referred to is due to him as the son of the mortgagee.

(ii) Krishnappa and Vasudevappa brothers of Nanjappa; these persons say that they were very young when the mortgage transaction took place; it was with their money and as the guardian of their interests that Kannambadi Venkat Ramiah their brother-in-law got the mortgage of the hakkus in question executed in his name; about 7 or 8 years ago, when a demand had been made on him for the assessment due on Kodagi lands, he deposed before the Amildar to say that the deed of mortgage had been merely drawn up in his name while the money on this account had been paid by Nanjappa, that the Kodagi belonged to the latter and not to himself; these two brothers therefore claim the Kodagi hak.

(iii) Devammah wife of Nanjappa: This woman represents

⊕ Deposition before Amil Dy 12/3/86.

This deposition is not in the files of papers now submitted to this office.

+ Petition to Amil Dy 18/4/86

represents that her husband's claim to the Kodagi is admitted by Venkeb Ramiah in his deposition before the Amildar referred to; her husband was paying the assessment due on the Kodagi lands receiving the one-fourth remission fixed on account of the Kodagi hak: her husband and Krishnappa and Vasudevappa are divided brothers: in the division of their ~~ancestral~~ ancestral property, the Kodagi in question together with the Chattram built by her father-in-law and the Tope and Paliyam &c belonging to it fell to the share of her husband while the village of Mattikere was made over to the share of the other two brothers: hence her claim to the Chowthaige due:

(1) Jamanna: This person says there is record to shew that he received the Chowthaige in the years 1872-73 and executed certain repairs to the tank; Venkeb Ramiah was paying the Kondageu for Kodagi lands enjoying the 1/4th remission during his lifetime; on his death his heirs lost their hak by failing to pay Kondageu to Govt: When the

+ Petition & Anal Dy 30/5/86

and which he cannot in fairness be called upon to repair without serious prejudice to the time-honored title of the Kodagidar jamanna or the Mortgagee in whose favor he has alienated his Kodagi hak for valuable consideration. Moreover the sale referred to was only on account of a small sum of the arrears of Loudaram dee and did not include the Kodagi hak of the tank.

(iii) The mortgage deed provides for the repairs of the tank - (please see para 2 above). Accordingly Nanjappa ~~has~~ is said to have been repairing the tank enjoying the 1/4 remission on its account. Amildar's witness noted in the margin bear out this statement.

10. From the papers now submitted it would appear that on Jamanna's petition of 1883 about the arrears ~~on the~~ of assessment on the lands in Chikmaranahalli, a report was called for by the Dy Commr; the Amildar reported that this

(1) No 536 dy 22/7/75
(2) No 276 dy 21/6/84
(3) No 67 dy 8/4/85.

⊕ order No 355 dy 18/7/83

† Amil's No 399 dy 25/7/83

thes individual and Nanjappa had been served with notices for the arrears due for 1882/83 but to no effect: the lands were therefore put up to auction under orders of the Dy Commr: There is nothing in the papers to shew that Jamanna executed any repairs to the tank: nothing is also known about the 1/4th of the Chowtharee of Nagasettihalli and one Khandi of land in Chikmaranhalli reserved ⊕ for himself by Jamanna: ~~perhaps~~ thes was an arrangement between the parties contracting the mortgage Krishnappa and Vasu-devappa are divided brothers of the deceased Nanjappa: These and the wife of Nanjappa say that the mortgage deed was merely drawn up in the name of Venkat Ramiah who had nothing to do with the amount paid or the enjoyment of the hak:

⊕ Please see para. 2 above.

11 As ~~remarked~~ generally mentioned † above Nanjappa is ~~the~~ in the present correspondence as having been in the enjoyment of the hak: It is

† para 9 (iii)

It is not clear, however, whether this has been the case all along without intermission since the date of the Mortgage or whether Venkat Ramiah had enjoyed the hak at anytime.

12. In this Office No 5014/263 of 1st October last Amildar's wrtee No 219 of 30th May 1882 alluded to in the Dy Commr's order No 225 of 20th June 1882 regarding the repairs of the tank was called for; the Dy Commr says in reply that the wrtee is filed with the correspondence submitted with his No 533 of 21st September last. It is not to be found among the papers filed with this letter.

Submitted for orders.

13. What is the amount of accumulated Chowthaya now claimed by the deft?

M.J.

14. Sir:

The exact amount of accumulated Chowthaya now

now claimed to be due is not mentioned in the papers: It however, evident that the amount remains unpaid since 1883/84. The sale of the wet lands of ~~Cheb~~ Chikmaranahally took place took place in 1882/83 When the arrears of assessment which the Kodagi holder failed to pay ~~was~~ amounted to Rs 73—5—0 as shewn in the ~~margin~~ margin after deducting the ½ remission for that year. The lands passed into the hands of the purchaser ~~in~~ 1883/84, and he has been paying full assessment to Govt: So that the Khoothagee's remaining unpaid since 1883/84 amounts to Rs 614-12-0, at the rate of 103-11-0 per year.

For 1882/83

½ The amount of assessment fixed as per survey: vide ~~para~~ marginal figures para 3 above	Rs	168-0-0
Local Cess due:		21-0-0
Total Rupees		189-0-0
Deduct amt paid	Rs 12-0-0	
Khoothagee deduction for the year as per figures in the margin ¶ para 3 above	103-11-0	115-11-0
Balance	Rs	73-5-0

The foregoing details are taken from Bonds' Ar Zi No 853 dd 22/12/83 and other papers above quoted.

BR.

Submitted for orders

M.M

2-5-84

15/ Order. 10 Sept 1883

The Sale on ~~12 June~~ was only of the occupancy right on the lands in Chicka Maralli Village, and did not include the Kodagi Hucks of Jammanna i.e. ~~his~~ right to receive ~~Rs~~ ¼ of the assessment ~~not~~ actually received by Govt for lands under the Tanks in question — This Govt right ~~was~~ has been conceded

as Consideration for the
Acquisition repair of the Chicken
Incumbrance tanks & ~~premises~~ upon the Grantee
~~hereby~~ entails the obligation
to maintain the tanks always
in a Condition of thorough repair
This right ~~was~~ not sold having been
in ~~June~~ January 1883 ~~and~~ is
now outstanding in the
registered Kadagsidan
Jamaama. The Engr
Cannot take any notice
of ~~a~~ alleged Mortgages of this right
in the absence of a decision
by a Competent Civil Court
as to claims of the Mortgagor
& mortgagee as between themselves
under such Circ to the Civil Court
will recognize Jamaama as
the owner of the Kadagsi Hulk,
~~pay~~ pay him any arrears
due for the period since
the sale of the lands above ref. to,
and ~~if~~ duly enforce the obligation
always to maintain the tanks
in a Condition of thorough repair & effr.

The arrears of Kadagsi (now due 1887 the kind
ing of the Kadagsidan at once due are
~~recovered~~ recovers were actually req'd by
the Tanks, or under adequate
because that the repairs were
ever be done without delay
6/2/88.

(Note Contd)

16. The foregoing orders of the Dewan were Communicated to the Dy Commr. by Progs. No. 2397 (16) P. 40 dated 11th July 1888.

17. A notice was accordingly issued to Jamanna. He was also asked to pay the Sum of Rs. 168-10-5 which had been expended by the P.W.D in 1885-86 for executing immediate repairs to the tank.

18. In November 1890 Jamanna stated before the Amildar that should the Chontayi amount be paid to him, he would execute the necessary repairs to the tank within 6 months from that date according to the estimate prepared by the D.P.W, and also produced one Ramaswamaya as his Security. He also Consented to the amount of Rs. 168-10-5 being deducted from the Chontayi amount due to him. The Amildar accordingly recommended the refund of the arrears of Chontayi amount due to Jamanna from 1883-84 to 1890-91. But the Dy Commr. ordered that as Jamanna

1891-92 might be paid to him (Papa naida). But Kullamma represented to the Rev. authorities that the payment of the amount to Papa naidu might be withheld till the result of the appeal preferred by her to the Chief Court was known. The Chief Court reversed the decree of the original Court.

24. In June 1896. Kullamma sold her Kodigi right to Nanjundappa (her brother) & the Sale-deed was duly registered. Since then till his death in October 1899, Nanjundappa was petitioning the Taluk and District authorities for the payment of the Chauthaji amount due from 1891-92. In the meantime, it was found that a Sum of Rs. 153-11-5 was still due from Nanjundappa's predecessor in title on account of repairs executed by the D.P.W in 1892-93. Further it was also under correspondence, whether the tank was in good order

and if not what repairs were to be executed. It was reported by the D.P.W. Overseer in April 1899 that Stone work, earthwork to the bund, & repair of Sluice had to be done.

25. Nanjundappa's heir and minor Son Vasantappa. represented by his mother and guardian Gowramma, requests payment of the Chantayi amount from 1891-92. less the Sum of Rs. 153-11-5 due to Govt. & the Cost of repairs now required to be done to the tank. It is Suggested by the Amildar that as there are many applications from the Ryots holding wet lands below the tank, asking for its repair, it may be taken over under the management of Govt. & the payment of the amount by the Kodi Sidar withheld.

26. Referring to Govt. Proc. No. 20374-5 × dated 28.5.1893, R. 2450

× Copy furnished

enquiry should then be in-

stituted by the Supdt. of Rev: Survey as to the extent and cost of the repairs, and as to the previous condition of the tank or well, after which he should grant a reduction of assessment not exceeding 1/4th or impose the maximum dry crop rate, according to local circumstances.

29. The Supdt. of Rev: Survey, to whom a reference had been made by the Dy Comm^r on the Subject, states that at the time of Settlement of Chontaji remissions under private tanks in the Bangalore Taluk, the case in question was not enquired into and settled by him, and that therefore no note of the tank-owner's claim to 1/4th assessment of the lands concerned, was made in the Phasal Patrike.

30. The introduction of Survey Settlement into a portion of the Bangalore Taluk (including Chikkamaranahalli village) was sanctioned

× P. no. 138 in the Ver: file -

in Pro: no. 5736/R 128 & 26.2.1872.

31. In July 1873, the Dy Commr Bangalore Dt. ~~[illegible]~~ re-presented* that instead of deducting the 1/4th assessment of the lands irrigated by the tanks as was usually done, the full assessment ~~[illegible]~~ had been erroneously credited in the accounts & that therefore 1/4th assessment should be remitted in favor of the owner of the tanks. Thereupon the Chief Commr ordered in Pro: no. 4065 Rev: 117 & 21.10.73, that the whole of the revenue derived under the tanks should in future be entered in the accounts without deductions, the proportion payable to the Kodigidar being separately shewn under the head of Charges. This order has been recognized & is in force - It is therefore to be admitted that the present owner of the tank is entitled to 1/4th assessment, having acquired that right by purchase -

* P. no. (1)

* P. no. (2)

The next point requires orders -

Submitted to the Secretary

N 1/8/01

I do not find the copy of the order of 1893. I wish to know also whether the right to Lall Kodagi ~~sug~~ claims has been recognised by any precedents or orders of Govt.

Please let me see all the rules on the extent of the Kodagidar's obligations and the frequency with which repairs shd be executed.

10/12/1901

Subject to the law as to the right to convey such rights, it seems that the proper course in this case is to pay the arrears to the alienee after deducting what is due for past repairs & what

I see this but it does not seem to be a general order.

is required for repair-
ing the tank now or future,
~~as~~ the person entitled
should be clearly informed
that if the tank falls into
disrepair & is not repaired
within 6 months after issue
of a notice by the Dy Cr
allowance discontinued.
the ~~grant~~ will be ~~resumed~~.

Perhaps it is worth consi-
dering ~~with~~ whether such
~~grant~~ in case may
~~be~~ up the precedents
(if any) & submit to (82)

Councillor- [signature]
12/8/1901

No precedents forth-
-coming
- Submitted to
the 1st Councillor
[signature]
14/8/01

Approved
[signature]

Draft Subd.
29.8.01